

REMARKS

Claims 1-23 are pending in the application.

Claims 1-23 have been rejected.

Claims 1 and 15 have been amended to correct minor informalities.

Reconsideration of the Claims is respectfully requested.

1. A telephonic interview with the Examiner was conducted regarding the references cited in the rejection after final mailed October 22, 2004. Applicant notes with appreciation the opportunity to conduct such interview.

2. The Office Action objected to Claims 1 and 15 for informalities. These claims have been amended to overcome the objection.

3. Rejection under 35 U.S.C. 102(e)

The Office Action rejected Claims 1, 7-9, 15 and 21-23 under 35 U.S.C. 102(e) as being anticipated by Ton, U.S. Publication No. 2002/0067704 (“Ton”). This rejection is respectfully traversed.

For establishing anticipation, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. . . . The identical invention must be shown in as complete detail as is contained in the . . . claim.” MPEP 2131 at p. 2100-73 (Rev. 2, May 2004) (citations omitted).

Ton recites a “network [that] will have a number of Mobile Nodes attached to the network. Each Mobile Node will have an IP address and be attached to the network through a Home Agent. When visiting another network a Mobile Node will register with that network through a Foreign Agent. The network will provide a number of Home Agents through which the Mobile Node may register, although the Mobile Node will be statically configured to register with a given Home Agent.” (Ton ¶ 0023).

To avoid Home Agent failure after mobile node registration, Ton calls for “an additional Mobile IP extension [that] is added to the registration reply message[that allows] the Mobile Node . . . to select a new secondary Home Agent to perform registration with in case the primary Home Agent fails.” (Ton ¶ 0028). As another alternative to avoid Home Agent after mobile node registration, Ton calls for “a dedicated hot standby or shared redundancy Home Agent . . .” (Ton ¶ 0028; Fig. 4 (“illustrating a flow of messages”); *see also* ¶ 0045 (“alternately using error code 136 . . .”)).

Also, Ton sets out that “[t]he FA forwards 445 the Mobile IP RRP from HA1 [(Home Agent 1)] to the [mobile node]. The [mobile node] receives the Mobile IP [registration reply] with error code 0 and the new Mobile IP Alternate HA extension indicating that it is registered with the primary HA and it stores the list of alternate HAs for redundancy support. The [mobile node] can now use the Mobile IP service.” (Ton ¶ 0062).

In other words, Ton recites activity following registration. After the MN is registered, and the primary Home Agent finds a less busy Home Agent, then it provides the MN with “an additional Mobile IP extension is added to the registration reply message.” After registration, if the primary Home Agent fails or there is a less busy Home Agent, the MN then pursues an alternate Home Agent.

In contrast, the method of Applicant’s claimed invention, as amended, sets out *inter alia*: “storing addresses for a plurality of home agents in the subscriber unit, wherein the plurality of home agents includes a primary home agent and a plurality of secondary home agents; attempting registration with the primary home agent from the stored address of the plurality of home agents; failing to achieve registration with the primary home agent; and the subscriber unit selecting a secondary home agent from the plurality of secondary home agents in an attempt to balance load among the plurality of secondary home agents.” (Claim 1).

Also, as set out in Applicant’s claimed invention of amended Claim 15, *inter alia*, a subscriber unit that operates within a cellular system “comprising: . . . at least one digital processor coupled to the radio frequency unit that executes software instructions causing the subscriber unit to: store addresses for a plurality of home agents in the subscriber unit, wherein the plurality of home agents includes a primary home agent and a plurality of secondary home agents; attempt registration with the primary home agent; failing to achieve registration with the primary home agent; select a secondary home agent from the plurality of secondary home agents in an attempt to balance load among the plurality of secondary home agents; and attempt registration with the secondary home agent. . . .” (Claim 15).

Accordingly, Applicant respectfully submits that each and every element as set forth in Applicant’s claimed invention of independent Claims 1 and 15 are not found, either expressly or inherently, in Ton. Applicant respectfully requests that the rejection of Claims 1 and 15, and Claims 7-9 and 21-23 that depend either directly or indirectly therefrom, be withdrawn.

4. Rejection under 35 U.S.C. 103(a)

As set out below, the Office Action had rejected Claims 2-6, 10-14, 16-20 under 35 U.S.C. 103(a) as being unpatentable over Ton in view of other references. These rejections are respectfully traversed.

The Office Action rejected Claims 2-3, 10-11, and 16-17 under 35 U.S.C. 103(a) as being unpatentable over Ton in view of Troxel et al., U.S. Publication No. 2002/0078238 (“Troxel”).

The Office Action rejected Claims 4 and 12 under 35 U.S.C. 103(a) as being unpatentable over Ton in view of Troxel, further in view of Jue et al. (“Design & Analysis of Replicated Server Architecture for Supporting IP-Host Mobility”) (“Jue”), and even further in view of Tiedmann et al., U.S. Patent No. 6,615,050 (“Tiedmann”).

The Office Action rejected Claims 5-6 and 13-14 under 35 U.S.C. 103(a) as being unpatentable over Ton in view of Troxel, further in view of Perkins “Mobile Networking through Mobile IP” (“Perkins”), even further in view of Fehnel, U.S. Patent No. 5,590,092 (“Fehnel”).

The Office Action rejected Claim 18 under 35 U.S.C. 103(a) as being unpatentable over Ton in view of Troxel, further in view of Jue.

The Office Action rejected Claims 19-20 under 35 U.S.C. 103(a) as being unpatentable over Ton in view of Troxel, further in view of Perkins.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). MPEP § 2142, p. 2100-128 (Rev. 2, May 2004).

These rejections are respectfully traversed in that, as shown below, there is no suggestion or motivation to combine the references to achieve Applicant’s claimed invention. Further, it is respectfully submitted that in several instances Applicant’s disclosure is used as a blue print in an attempt to bring

disassociated references having no suggestion or motivation to combine as an improper basis for rejection of Applicant's claimed invention.

Ton recites a "network [that] will have a number of Mobile Nodes attached to the network. Each Mobile Node will have an IP address and be attached to the network through a Home Agent. When visiting another network a Mobile Node will register with that network through a Foreign Agent. The network will provide a number of Home Agents through which the Mobile Node may register, although the Mobile Node will be statically configured to register with a given Home Agent." (Ton ¶ 0023).

To avoid Home Agent failure following mobile node registration, Ton calls for "an additional Mobile IP extension [that] is added to the registration reply message[that allows] the Mobile Node . . . to select a new secondary Home Agent to perform registration with in case the primary Home Agent fails." (Ton ¶ 0028). Another alternative to avoid Home Agent failure following mobile node registration, Ton calls for "a dedicated hot standby or shared redundancy Home Agent . . ." (Ton ¶ 0028; Fig. 4 ("illustrating a flow of messages")); *see also* ¶ 0045 ("alternately using error code 136 . . .").

In other words, Ton recites activity following registration. After the MN is registered, and the primary Home Agent finds a less busy Home Agent, then it provides the MN with "an additional Mobile IP extension is added to the registration reply message." After registration, if the primary Home Agent fails or there is a less busy Home Agent, the MN then pursues an alternate Home Agent.

Troxel recites an "invention [that] can enable nodes on a foreign subnetwork to exchange messages." (Troxel ¶ 0016).

Jue recites "[m]obility supporting IP networks [that] requires servers to forward packets to mobile hosts and to maintain information pertaining to a mobile host's location in the network." (Jue, Abstract).

Tiedmann relates to a cellular telephone "system for increasing the reliability of the cellular telephone system in environments having substantial multipath propagation or under conditions wherein a large number of mobile telephone units simultaneously attempt to access a base station." (Tiedmann 1:18-24). Specifically, Tiedmann relates to "[reducing] interference between multiple spread-spectrum transmitters operating simultaneously . . ." (Tiedmann 3:12-15).

Perkins recites that "Mobile IP requires the existence of a network node known as the home agent. Whenever the mobile node is not attached to its home network (and is therefore attached to what is

termed a foreign network), the home agent gets all the packets destined for the mobile node and arranges to deliver them to the mobile node's current point of attachment." (Perkins p. 59).

Fehnel recites "an object . . . to provide methods and systems for generating a current time of day in a cellular radiotelephone. (Fehnel 2:20-22).

In contrast, the method of Applicant's claimed invention sets out *inter alia*: "storing addresses for a plurality of home agents in the subscriber unit, wherein the plurality of home agents includes a primary home agent and a plurality of secondary home agents; attempting registration with the primary home agent; failing to achieve registration with the primary home agent; and the subscriber unit selecting a secondary home agent from the plurality of secondary home agents in an attempt to balance load among the plurality of secondary home agents." (Independent Claim 1).

As also set out, Claim 10 recites, *inter alia*, "[a] method for registering a subscriber unit with a home agent in a cellular system, the method comprising: storing addresses for a plurality of home agents in the subscriber unit, wherein the plurality of home agents includes a primary home agent and a plurality of secondary home agents; . . . failing to achieve registration with the primary home agent; . . . ." (Independent Claim 10)

Further, as set out in Applicant's claimed invention of Claim 15, *inter alia*, a subscriber unit that operates within a cellular system "comprising: . . . at least one digital processor coupled to the radio frequency unit that executes software instructions causing the subscriber unit to: store addresses for a plurality of home agents in the subscriber unit, wherein the plurality of home agents includes a primary home agent and a plurality of secondary home agents; attempt registration with the primary home agent; failing to achieve registration with the primary home agent; select a secondary home agent from the plurality of secondary home agents in an attempt to balance load among the plurality of secondary home agents; and attempt registration with the secondary home agent. . . ." (Claim 15). . . ." (Independent Claim 15).

Ton cannot serve as a basis for establishing a *prima facie* obviousness rejection. Under Ton, to avoid Home Agent registration failure calls for "an additional Mobile IP extension [that] is added to the registration reply message [that allows] the Mobile Node . . . to select a new secondary Home Agent to perform registration with in case the primary Home Agent fails." (Ton ¶ 0028). As another alternative to avoid Home Agent registration failure, Ton calls for "a dedicated hot standby or shared redundancy Home Agent . . ." (Ton ¶ 0028).

Accordingly, Applicant respectfully submits that there is no suggestion or motivation in Ton or the various references cited, either in these references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify Ton or combine the various cited references to achieve Applicant's claimed invention of Claims 2-6 (which depend directly or indirectly from Independent Claim 1), Claim 10 and Claims 11-14, which depend directly or indirectly from Claim 10, and Dependent Claims 16-20 (which depend directly or indirectly from Independent Claim 15).

Accordingly, a *prima facie* case of obviousness has not been established. It respectfully submitted that Claims 2-6, 10-14, and 16-20 are allowable, and Applicant requests that the rejections of these claims be withdrawn.

CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at [ksmith@texaspatents.com](mailto:ksmith@texaspatents.com).

Respectfully submitted,

Date: March 22, 2005

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